

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LARRY BUTLER,	§	
TDCJ-CID NO. 1116378,	§	
Plaintiff,	§	
v.	§	CIVIL ACTION NO. H-11-2864
BETTY WILLIAMS,	§	
Defendant.	§	

ORDER

On August 26, 2011, this Court dismissed plaintiff's civil rights action, pursuant to 28 U.S.C. § 1915(g). (Docket Entry No.4). Plaintiff filed a notice of appeal from this dismissal order. (Docket Entry No.7). He also filed an application to proceed *in forma pauperis* on appeal (Docket Entry No.9), and two pleadings that the Court construed as motions pursuant to Rules 59(e) and 60(b) of the Federal Rules of Civil Procedure. (Docket Entries No.8, No.12, No.14). The Court denied all of these motions on October 22, 2011. (Docket Entry No.14).

On November 18, 2011, plaintiff filed a notice of appeal from the Order of October 22, 2011. (Docket Entry No.15). Later in the month, plaintiff filed three applications to proceed on appeal *in forma pauperis*. (Docket Entries No.20, No.26, No.27). Plaintiff alleges in separate documents that he is in imminent danger of serious physical injury but he states no facts in support of this claim. (Docket Entries No.21, No.22). Plaintiff also seeks the appointment of counsel on appeal. (Docket Entries No.23, No.24, No.25).

Plaintiff has been barred from proceeding *in forma pauperis* under 28 U.S.C. § 1915(g). (Docket Entry No.5). Moreover, he states no facts to show that he was in imminent physical danger at the time he filed the notice of appeal; therefore, he does not meet the exception to 28 U.S.C. § 1916(g). See Banos v. O'Guin, 144 F.3d 883, 884 (5th Cir. 1998). For this reason, plaintiff cannot proceed without prepayment of the appellate filing fee.

Accordingly, it is ORDERED that plaintiff's applications to proceed on appeal *in forma pauperis* (Docket Entries No.20, No.26, No.27) are DENIED under 28 U.S.C. § 1915(g). All other pending motions are also DENIED.

The Clerk will provide a copy of this order by facsimile transmission, regular mail, or e-mail to plaintiff, the TDCJ - Office of the General Counsel, Capitol Station, P.O. Box 13084, Austin, Texas, 78711, Fax: 512-936-2159, and the Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629, Fax: 936-437-4793.

SIGNED at Houston, Texas, on February 14, 2012.


EWING WERLEIN, JR.
UNITED STATES DISTRICT JUDGE